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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

1976

LOK SABHA

The following Bills were introduced in Lok Sabha on 20th August, 1976:—

BILL NO. 72 OF 1976

A Bill to provide for the acquisition of the undertakings of the Burn and Company Limited and the Indian Standard Wagon Company Limited with a view to ensuring the continuity of the production of goods which are vital to the needs of the economy of the country and for the fulfilment of the contracts for the supply of railway wagons abroad and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Burn Company and Indian Standard Wagon Company (Nationalisation) Act, 1976.

(2) The provisions of sections 27 and 28 shall come into force at once and the remaining provisions of this Act shall be deemed to have come into force on the 1st day of April, 1975.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appointed day" means the 1st day of April, 1975;

(*b*) "Burn and Company Limited" includes its wholly owned subsidiary company, namely, Coburn Properties Limited, having its registered office at 10-C, Hungerford Street, Calcutta-17;

(*c*) "Commissioner" means the Commissioner of Payments appointed under section 14;

(*d*) "Custodian" means the Custodian appointed under sub-section (*2*) of section 9 to take over, or carry on, the management of the undertakings of either or both of the two companies;

(*e*) "Ordinance" means the Burn Company and Indian Standard Wagon Company (Nationalisation) Ordinance, 1976; 8 of 1976.

(*f*) "notification" means a notification published in the Official Gazette;

(*g*) "prescribed" means prescribed by rules made under this Act;

(*h*) "specified date" means such date as the Central Government may, by notification, specify for the purpose of any provision of this Act, and different dates may be specified for different provisions of this Act;

(*i*) "two companies" means Burn and Company Limited and Indian Standard Wagon Company Limited, being companies as defined in the Companies Act, 1956, and both having their registered offices at 10-C, Hungerford Street, Calcutta-17; 1 of 1956.

(*j*) words and expressions used herein and not defined but defined in the Companies Act, 1956, have the meanings, respectively, assigned to them in that Act. 1 of 1956.

CHAPTER II

ACQUISITION OF THE UNDERTAKINGS OF THE TWO COMPANIES

Transfer and vesting in Central Government of the undertakings of the two companies

3. On the appointed day, the undertakings of each of the two companies, and the right, title and interest of each of the two companies in relation to such undertakings, shall stand transferred to, and shall vest absolutely in, the Central Government.

General effect of vesting.

4. (*1*) The undertakings of each of the two companies referred to in section 3 shall be deemed to include all assets, rights, lease-holds, powers, authorities and privileges and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash on hand, reserve funds, investments and book debts and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of either of the two companies, whether within or outside India, and all books of account, registers and all other documents of whatever nature relating thereto, and shall also be deemed to include the liabilities and obligations specified in sub-section (*2*) of section 5.

(*2*) All properties as aforesaid which have vested in the Central Government under section 3 shall, by force of such vesting, be freed and

discharged from any trust, obligation, mortgage, charge, lien and all other incumbrances affecting it, and any attachment, injunction or decree or order of any court restricting the use of such properties in any manner or appointing any receiver in respect of the whole or any part of such property shall be deemed to have been withdrawn.

(3) Every mortgagee of any property which has vested under this Act in the Central Government and every person holding any charge, lien or other interest in, or in relation to, any such property shall give, within such time and in such manner as may be prescribed, an intimation to the Commissioner of such mortgage, charge, lien or other interest.

(4) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (3) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and interests, payment of the mortgage money or other dues, in whole or in part, out of the amount specified, in relation to the company owning such property, in the First Schedule, but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Central Government.

(5) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any matter specified in sub-section (2) of section 5, in respect of any undertaking of either of the two companies, instituted or preferred by or against either of the two companies, is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertakings of either of the two companies or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the Central Government, or, where the undertakings of the two companies are directed, under section 6, to vest in a Government company, against that Government company.

Owners of the two companies to be liable for certain prior liabilities.

5. (1) Every liability, other than the liability specified in sub-section (2), of each of the two companies in respect of any period prior to the appointed day, shall be the liability of the concerned company and shall be enforceable against it, and not against the Central Government, or, where the undertakings of the two companies are directed, under section 6, to vest in a Government company, against that Government company.

(2) **Any liability arising in respect of—**

(a) the loans advanced by the Central Government, or a State Government, or both, to either of the companies, or to both (together with interest due thereon) after the management of the undertakings of the concerned company had been taken over by the Central Government;

(b) the wages, salaries and other dues of employees of each of the two companies in respect of any period after the management of the undertakings of the two companies had been taken over by the Central Government,

shall, on and from the appointed day, be the liability of the Central Government or of the Government company aforesaid and shall be discharged by that Government or Government company, as and when repayment of such loans or amounts becomes due or as and when such wages, salaries or other dues become due and payable.

(3) For the removal of doubts, it is hereby declared that,—

(a) save as otherwise expressly provided in this section or in any other provision of this Act, no liability, other than the liability specified in sub-section (2), of either of the two companies in relation to its undertakings in respect of any period prior to the appointed day, shall be enforceable against the Central Government, or, where the undertakings of the two companies are directed, under section 6, to vest in a Government company, against that Government company;

(b) no award, decree or order of any court, tribunal or other authority in relation to the undertakings of either of the two companies, passed after the appointed day, in respect of any matter, claim or dispute, not being a matter, claim or dispute in relation to any matter referred to in sub-section (2), which arose before that day, shall be enforceable against the Central Government or, where the undertakings of the two companies are directed, under section 6, to vest in a Government company, against that Government company;

(c) no liability incurred by either of the two companies before the appointed day, for the contravention, of any provision of law for the time being in force, shall be enforceable against the Central Government, or, where the undertakings of the two companies are directed, under section 6, to vest in a Government company, against that Government company.

Power of the Central Government to direct vesting of the undertakings of the two companies in a Government company.

6. (1) Notwithstanding anything contained in sections 3 and 4, the Central Government may, if it is satisfied that a Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, direct, by notification, that the undertakings of the two companies and the right, title and interest of the two companies in relation to their respective undertakings which have vested in that Government under section 3, and such of the liabilities of the two Companies as are specified in sub-section (2) of section 5, shall, instead of continuing to vest in the Central Government, vest in the Government company either on the date of the notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.

(2) Where the right, title and interest, and the liabilities referred to in sub-section (2) of section 5, of each of the two companies, in relation to its undertakings, vest in a Government company under sub-section (1), the Government company shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertakings, and all the rights and liabilities of the Central Government in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of the Government company.

CHAPTER III

PAYMENT OF AMOUNTS

Payment of amount.

7. For the transfer to, and vesting in, the Central Government, under section 3, of the undertakings of each of the two companies and the right, title and interest of each of the two companies in relation to such undertakings, there shall be given by the Central Government to each of the

two Companies, in cash and in the manner specified in Chapter VI, an amount equal to the amount specified against the name of such company in the First Schedule.

Payment of further amount.

8. (1) In consideration of the retrospective operation of the provisions of sections 3, 4 and 5, there shall also be given, in cash, by the Central Government to each of the two companies an amount equal to an amount, calculated at the rates specified in section 5 of the Burn Company and Indian Standard Wagon Company (Taking Over of Management) Act, 1973, for the period commencing on the appointed day and ending on the date of promulgation of the Ordinance.

57 of 1973.

(2) The amount specified in section 7, and the amount determined under sub-section (1), shall carry simple interest at the rate of four per cent. per annum for the period commencing on the date of promulgation of the Ordinance and ending on the date on which payment of such amount is made by the Central Government to the Commissioner.

(3) The amounts determined in accordance with the provisions of sub-sections (1) and (2) shall be given to each of the companies in addition to the amount specified against its name in the First Schedule.

CHAPTER IV

MANAGEMENT, ETC., OF THE UNDERTAKINGS OF THE TWO COMPANIES

Management, etc., of the undertakings of the two companies.

9. (1) The general superintendence, direction, control and management of the affairs and business of the undertakings of each of the two companies, the right, title and interest in relation to which have vested in the Central Government under section 3, shall,—

(a) where a direction has been made by the Central Government under sub-section (1) of section 6, vest in the Government company specified in such direction, or

(b) where no such direction has been made by the Central Government, vest in one or more Custodians appointed by the Central Government under sub-section (2),

and thereupon the Government company so specified or the Custodian so appointed, as the case may be, shall be entitled to exercise all such powers and do all such things as either, or both, of the companies is or are authorised to exercise and do in relation to its or their undertakings.

(2) The Central Government may appoint one or more individuals or a Government company as the Custodian of the undertakings of either, or both, of the two companies in relation to which no direction has been made by it under sub-section (1) of section 6.

Duty of persons in charge of management of the undertakings of the two companies to deliver all assets, etc.

10. (1) On the vesting of the management of the undertakings of the two companies in a Government company or on the appointment of a Custodian, all persons in charge of the management of the undertakings of either of the two companies immediately before such vesting or appointment, shall be bound to deliver to the Government company or the Custodian, as the case may be, all assets, books of account, registers or other documents in their custody relating to the undertakings of such company.

(2) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the Government company

or the Custodian as to its or his powers and duties and the Government company or Custodian may also, if it or he so desires, apply to the Central Government at any time for instructions as to the manner in which the management of the undertakings of the two companies shall be conducted by it or him or in relation to any other matter arising in the course of such management.

(3) The Custodian shall receive from the funds of the undertakings, in relation to which he is the Custodian, such remuneration as the Central Government may fix and shall hold office during the pleasure of the Central Government.

Accounts and audit.

11. The Custodian of the undertakings of either, or both, of the companies shall maintain an account of the undertakings of the concerned company or companies in such form and manner and under such conditions as may be prescribed and the provisions of the Companies Act, 1956, shall apply to the audit of the account so maintained as they apply to the audit of the accounts of a company. 1 of 1956.

CHAPTER V

PROVISIONS RELATING TO EMPLOYEES OF THE TWO COMPANIES

Employment of certain employees to continue.

12. (1) Every person who is a workman within the meaning of the Industrial Disputes Act, 1947, and has been, immediately before the appointed day, employed in any undertaking of either of the two companies shall become, on and from the appointed day, an employee of the Central Government or, as the case may be, of the Government company in which the right, title and interest of the two companies in relation to their undertakings have vested under this Act, and shall hold office or service under the Central Government or the Government company, as the case may be, with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the Central Government or the Government company, as the case may be, is duly terminated or until his remuneration and other conditions of service are duly altered by the Central Government or the Government company, as the case may be. 14 of 1947.

(2) Every person who is not a workman within the meaning of the Industrial Disputes Act, 1947, and who has been, immediately before the appointed day, employed in any undertaking of either of the two companies shall become, as from the appointed day, an employee of the Central Government or the Government company, and shall hold office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity and other matters as would have been admissible to him if the undertakings of the company in which he was employed had not been transferred to, and vested in, the Central Government or the Government company and shall continue to do so unless and until his employment in the Central Government or the Government company is duly terminated or until his remuneration, terms and conditions of employment are duly altered by the Central Government or the Government company, as the case may be. 14 of 1947.

14 of 1947

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other person employed in any undertaking of either of the two companies, to the Central Government or the Government company shall not entitle such officer or other employee to any compensation under this Act or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(4) Where, under the terms of any contract of service or otherwise, any person whose services become transferred to the Central Government or the Government company by reason of the provisions of this Act is entitled to any arrears of salary or wages or any payments for any leave not availed of or other payment, not being payment by way of gratuity or pension, such person may, except to the extent of such liability which has been taken over by the Central Government or the Government company under sub-section (2) of section 5, enforce his claim against the company by which he was employed immediately before such transfer, but not against the Central Government or the Government company.

Provident and other funds.

13. (1) Where either of the two companies have established a provident fund, superannuation, welfare or other fund for the benefit of the persons employed in any of its undertakings, the monies relatable to the officers or other employees, whose services have become transferred by or under this Act to the Central Government or the Government company shall, out of the monies standing, on the appointed day, to the credit of such provident fund, superannuation, welfare or other fund, stand transferred to, and vest in, the Central Government or the Government company, as the case may be.

(2) The monies which stand transferred under sub-section (1) to the Central Government or the Government company, as the case may be, shall be dealt with by that Government or Government company in such manner as may be prescribed.

CHAPTER VI

COMMISSIONER OF PAYMENTS

Appointment of Commissioner of Payments.

14. (1) The Central Government shall, for the purpose of disbursing the amounts payable under section 7, section 8, and sub-section (2) of section 15, to each of the two companies, by notification, appoint a Commissioner of Payments.

(2) The Central Government may appoint such other persons as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons also to exercise all or any of the powers exercisable by him under this Act and different persons may be authorised to exercise different powers.

(3) Any person authorised by the Commissioner to exercise any of the powers exercise by the Commissioner may exercise these powers in the same manner and with the same effect as if they have been conferred on that person directly by this Act and not by way of authorisation.

(4) **The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of India.**

Payment by the Central Government to the Commissioner.

15. (1) The Central Government shall, within thirty days from the specified date, pay in cash to the Commissioner, for payment to each of the two companies,—

(a) an amount equal to the amount specified against the name of such company in the First Schedule; and

(b) an amount equal to the amount payable to each of the two companies under section 8.

(2) **In addition to the sums referred to in sub-section (1), there shall be paid by the Central Government to the Commissioner, in cash, such amount, payable under section 5 of the Burn Company and Indian Standard Wagon Company (Taking Over of Management) Act, 1973, to each of the two companies in relation to the period commencing on the date on which the management of the undertakings of each of the two companies was taken over by the Central Government and ending on the appointed day, as remains unpaid.** 57 of 1973.

(3) A deposit account shall be opened by the Central Government in favour of the Commissioner, in the Public Account of India, and every amount paid under this Act to the Commissioner shall be deposited by him to the credit of the said deposit account and the said deposit account shall be operated by the Commissioner.

(4) Separate records shall be maintained by the Commissioner in respect of the undertakings of each of the two companies in relation to which payments have been made to him under this Act.

(5) Interest accruing on the amounts standing to the credit of the deposit account referred to in sub-section (3) shall enure to the benefit of the two companies.

Certain powers of the Central Government or Government company.

16. (1) The Central Government or the Government company, as the case may be, shall be entitled to receive, up to the specified date, to the exclusion of all other persons, any money due to either of the two companies, in relation to the undertakings which have vested in the Central Government or the Government company, realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day.

(2) The Central Government or the Government company, as the case may be, may make a claim to the Commissioner with regard to every payment made by that Government after the appointed day for discharging any liability of either of the two companies, not being any liability specified in sub-section (2) of section 5, in relation to any period prior to the appointed day, and every such claim shall have priority, in accordance with the priorities attaching, under this Act, to the matter in relation to which such liability has been discharged by the Central Government or the Government company.

(3) Save as otherwise provided in this Act, the liabilities of either of the two companies in respect of any transaction prior to the appointed day which have not been discharged on or before the specified date shall be the liabilities of the respective company.

Claims to be made to the Commissioner.

17. Every person having a claim against either of the two companies shall prefer such claim before the Commissioner within thirty days from the specified date:

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days, but not thereafter.

Priority of claims.

18. The claims arising out of the matters specified in the Second Schedule shall have priorities in accordance with the following principles, namely:—

(*a*) Category I shall have precedence over all other categories and Category II shall have precedence over Category III, and so on;

(*b*) the claims specified in each of the categories, except Category IV, shall rank equally and be paid in full, but, if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly;

(*c*) the liabilities specified in Category IV shall be discharged, subject to the priorities specified in this section, in accordance with the terms of the secured loans and the priority, *inter se*, of such loans; and

(*d*) the question of discharging any liability with regard to a matter specified in a lower category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher category.

Examination of claims.

19. (*1*) On receipt of the claims made under section 17, the Commissioner shall arrange the claims in the order of priorities specified in the Second Schedule and examine the same in accordance with such order of priorities.

(*2*) If, on examination of the claims, the Commissioner is of opinion that the amount paid to him under this Act is not sufficient to meet the liabilities specified in any lower category, he shall not be required to examine the claims in respect of such lower category.

Admission or rejection of claims.

20. (*1*) After examining the claims with reference to the priorities set out in the Second Schedule, the Commissioner shall fix a certain date on or before which every claimant shall file the proof of his claim or be excluded from the benefit of the disbursement made by the Commissioner.

(*2*) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue of the daily newspaper in the English language and one issue of such daily newspaper in the regional language as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the time specified in the advertisement.

(*3*) Every claimant who fails to file the proof of his claim within the time specified by the Commissioner shall be excluded from the disbursements made by the Commissioner.

(4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the concerned company an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, in writing, admit or reject the claim in whole or in part.

(5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions, including the place or places at which he will hold his sitting and shall, for the purpose of making any investigation under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:— 5 of 1908.

(*a*) the summoning and enforcing the attendance of any witness and examining him on oath;

(*b*) the discovery and production of any document or other material object producible as evidence;

(*c*) the reception of evidence on affidavits;

(*d*) the issuing of any commission for the examination of witnesses.

(6) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Commissioner shall be deemed to be a civil court for the purposes of section 345 and Chapter XXVI of the Code of Criminal Procedure, 1973. 45 of 1860. 2 of 1974.

(7) A claimant who is dissatisfied with the decision of the Commissioner, may prefer an appeal against the decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the concerned company is situated:

Provided that where a person who is a Judge of a High Court is appointed to be a Commissioner, such appeal shall lie to the High Court at Calcutta and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

Disbursement of money by Commissioner to claimants.

21. After admitting a claim under this Act, the amount due in respect of such claim shall be paid by the Commissioner to the person or persons to whom such sums are due and on such payment, the liability of each of the two companies in respect of such claim shall stand discharged.

Disbursements of amounts to the two companies.

22. (1) If, out of the monies paid to him in relation to the undertakings of either of the two companies, there is a balance left after meeting the liabilities as specified in the Second Schedule, the Commissioner shall disburse such balance to the concerned company.

(2) Where the possession of any machinery, equipment or other property has vested in the Central Government or a Government company under this Act, but such machinery, equipment or other property does not belong to either of the two companies, it shall be lawful for the Central Government or the Government company to continue to possess such machinery or equipment or other property on the same terms and conditions under which they were possessed by either of, or both, the companies immediately before the 1st day of April, 1975.

Undisbursed or unclaimed amount to be deposited with the general revenue account.

23. Any money paid to the Commissioner which remains undisbursed or unclaimed for a period of three years from the last day on which the disbursement was made, shall be transferred by the Commissioner to the general revenue account of the Central Government; but a claim to any money so transferred may be preferred to the Central Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, the order, if any, for payment of the claim being treated as an order for the refund of revenue.

CHAPTER VII

MISCELLANEOUS

Assumption of liability.

24. (*1*) Where any liability of either of the two companies arising out of any item specified in Category I of the Second Schedule is not discharged fully by the Commissioner out of the amounts paid to him under this Act, the Commissioner shall intimate in writing to the Central Government the extent of the liability which remains undischarged, and to that extent the liability shall be assumed by the Central Government.

(*2*) The Central Government may, by order, direct the Government company to take over any liability assumed by that Government under sub-section (*1*) and on receipt of such direction, it shall be the duty of the Government company to discharge such liability.

Act to have overriding effect.

25. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any court, tribunal or other authority.

Contracts to cease to have effect unless ratified by the Central Government or Government company.

26. (*1*) Every contract entered into by either of the two companies in relation to any of its undertakings which have vested in the Central Government under section 3 for any service, sale or supply, and in force immediately before the appointed day, shall, on and from the expiry of one hundred and eighty days from the date of promulgation of the Ordinance, cease to have effect unless such contract is, before the expiry of that period, ratified, in writing, by the Central Government, or Government company, and in ratifying such contract the Central Government or Government company may make such alteration or modification therein as it may think fit:

Provided that the Central Government or Government company shall not omit to ratify a contract and shall not make any alteration or modification in a contract unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of, the Central Government or the Government company.

(*2*) The Central Government or Government company shall not omit to ratify a contract, and, shall not make any alteration or modification therein, except after giving to the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reasons for refusal to ratify the contract or for making any alteration or modification therein.

Penalties.

27. Any person who,—

(*a*) having in his possession, custody or control any property forming part of any undertaking of either of the two companies, wrongfully withholds such property from the Central Government or Government company; or

(*b*) wrongfully obtains possession of, or retains, any property forming part of any undertaking of either of the two companies, or wilfully withholds or fails to furnish to the Central Government or Government company or any person or body of persons specified by that Government or Government company, any document relating to such undertaking, which may be in his possession, custody or control, or fails to deliver to the Central Government or Government company or any person or body of persons specified by that Government or Government company, any assets, books of account, registers or other documents in his possession, custody or control relating to the undertakings of either of the two companies; or

(*c*) wrongfully removes or destroys any property forming part of any undertaking of either of the two companies or prefers any claim which he knows or has reasonable cause to believe to be false or grossly inaccurate,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

Offences by companies.

28. (*1*) Where an offence under this Act has been committed by a company, every person who, at the time when the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

Protection of action taken in good faith.

29. (*1*) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of that Government or the Custodian or the Government company or other person authorised by that Government or Government company for anything which is in good faith done or intended to be done under this Act.

(*2*) No suit or other legal proceeding shall lie against the Central Government or any of its officers or other employees of the Government company or any officer or other person authorised by that company for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

Delegation of powers.

30. (*1*) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act, other than the power conferred by section 31, may also be exercised by such person or persons as may be specified in the notification.

(*2*) Whenever any delegation of power is made under sub-section (*1*), the person to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

Power to make rules.

31. (*1*) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(*a*) the time within which, and the manner in which, an intimation referred to in sub-section (*3*) of section 4 shall be given;

(*b*) the form and the manner in which and the conditions under which the Custodian shall maintain the accounts as required by section 11;

(*c*) the manner in which the monies in any provident fund or other fund, referred to in section 13, shall be dealt with;

(*d*) any other matter which is required to be, or may be, prescribed.

(*3*) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties.

32. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which this Act receives the assent of the President.

Declaration as to the policy of the State.

33. It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clause (*b*) of article 39 of the Constitution.

Explanation.—In this section, "State" has the same meaning as in article 12 of the Constitution.

Repeal and saving.

34. (*1*) The Burn Company and Indian Standard Wagon Company (Taking Over of Management) Act, 1973, and the Burn Company and Indian Standard Wagon Company (Nationalisation) Ordinance, 1976, are hereby repealed. 57 of 1973. 8 of 1976.

(*2*) Notwithstanding such repeal,—

(*a*) anything done or any action taken by the Custodian in exercise of the powers of the Board of Management of the two companies at any time within the period during which the management of the undertakings of the two companies remained vested in the Central Government or at any time before the date on which this Act receives the assent of the President, shall be deemed to have been done or taken in accordance with law;

(*b*) anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE FIRST SCHEDULE

[*See* sections 7, 8 and 15(2)]

Sl. No.	Name of the company	Amount (Rupees in lakhs)
1.	Burn and Company Limited	1,388.00
2.	Indian Standard Wagon Company Limited	1,135.00

THE SECOND SCHEDULE

(*See* sections 18, 19, 20 and 24)

ORDER OF PRIORITIES FOR THE DISCHARGE OF LIABILITIES OF THE TWO COMPANIES

PART "A"

Post-take-over management period

Category I—

(*a*) Loans advanced by banks.

(*b*) Loans advanced by the Industrial Reconstruction Corporation of India.

(*c*) Credit availed of for purposes of trade or manufacturing operations.

Category II—

(*a*) Revenue, taxes, cesses, rates or other dues of Central Government or a State Government.

(*b*) Sales tax; rates and taxes; contribution to be made to the Employees' State Insurance Fund, and Additional Dearness Allowance payable to employees.

PART "B"

Pre-take-over management period

Category III—

Arrears in relation to provident fund, salaries and wages and other amounts due to employees.

Category IV—

Secured loans.

Category V—

Revenue, taxes, cesses, rates or any other dues to the Central Government, a State Government, a local authority or a State Electricity Board.

Category VI—

(*a*) Any credit availed of for purpose of trade or manufacturing operations.

(*b*) Any other dues.

STATEMENT OF OBJECTS AND REASONS

The Burn and Company Limited and the Indian Standard Wagon Company Limited are inter-linked, both financially and production-wise. These two Companies were engaged in the production of goods which are vital to the needs of the economy of the country, such as, railway wagons and components thereof, steel structurals, iron castings, forgings and the like and also other goods needed by the iron and steel industry.

2. Both the Companies were functioning reasonably well till 1966-67, after which, due to mismanagement, there was a steady decline in the production of the Companies. Towards the middle of 1973, the Companies reached a stage at which their undertakings were on the verge of closure. As the closure of the undertakings of the two Companies would have adversely affected the production of commodities vital to the needs of the country and also would have prejudicially affected the commitment of the Government of India with regard to the export of railway wagons, the Central Government took over the management of the undertakings of the Companies, pending nationalisation of such undertakings, by a Parliamentary legislation with effect from the 19th December, 1973.

3. The liabilities of both the Companies far exceeded the value of their assets at the time when the management of the undertakings of the Companies was taken over. After the taking over of the management of the undertakings of the Companies, the Central Government took a number of steps to improve the operation of such undertakings; and, as a result of such steps, both the Companies have shown satisfactory upward trends in production. However, the liabilities of both the Companies with regard to the payment of interests on loans advanced by banks, particularly in relation to the credit facilities made available to them by the banks, came up to as high as Rs. 1.5 lakhs per day. The liquidity position of the Companies was, consequently, going down steeply. In the circumstances, the Burn Company and Indian Standard Wagon Company (Nationalisation) Ordinance, 1976 (8 of 1976) was promulgated by the President to provide for the acquisition of the undertakings of the two Companies.

4. The Bill seeks to replace the said Ordinance and also to repeal the Parliamentary legislation by which the management of the undertakings of the two Companies was taken over by the Central Government.

NEW DELHI; T. A. PAI.

The 4th August, 1976.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 3(2)/76/HM-III, dated the 5th August, 1976 from Shri T. A. Pai, Minister of Industry and Civil Supplies to the Secretary-General, Lok Sabha.]

The President having been informed of the subject matter of the Bill to provide for the replacement of the Ordinance 'The Burn Company and Indian Standard Wagon Company (Nationalisation) Ordinance, 1976 (No. 8 of 1976), by Act of Parliament, recommends, under clauses (1) and (3) of article 117 of the Constitution, the introduction of the said Bill and its consideration by Lok Sabha.

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides for payment, in cash and in the manner specified in Chapter VI, an amount equal to the amount specified against the name of each of the two companies specified in the First Schedule to the Bill for vesting in the Central Government, the right, title and interest of such company in relation to the undertakings owned by it. The Bill, if enacted, would thus involve an expenditure of the order of Rs. 1388.00 lakhs in respect of Burn and Company Limited; and Rs. 1135.00 lakhs in respect of Indian Standard Wagon Company Limited. The total expenditure which will thus be involved will be of the order of Rs. 2523.00 lakhs.

2. Sub-clause (2) of clause 5 of the Bill provides that the liability arising in respect of (a) the loans advanced by the Central Government or State Government or both, to the two companies (together with interest due thereon) after the management of the undertakings of the concerned company had been taken over by the Central Government and (b) the wages, salaries and other dues of employees of each of the two companies in respect of any period after the management of the undertakings of the two companies had been taken over by the Central Government, shall on and from the appointed day, be the liability of the Central Government or of the Government company aforesaid and shall be discharged by the Government or Government company as and when repayment of such loans or amounts becomes due or as and when such wages, salaries or other dues become due and payable. It is estimated that the expenditure on this account will be of the order of Rs. 1318.00 lakhs.

3. Sub-clause (1) of clause 8 provides for payment of further amount in cash, in consideration of the retrospective operation of the provisions of clauses 3, 4 and 5 to each of these two companies, an amount equal to an amount, calculated at the rates specified in section 5 of the Burn Company and Indian Standard Wagon Company (Taking Over of Management) Act, 1973, for the period commencing on the appointed day and ending on the date of promulgation of the Ordinance, *viz.*, 23rd June, 1976. It is estimated that the expenditure on this account will be of the order of Rs. 1.00 lakh.

4. Sub-clause (2) of clause 8 provides for payment of simple interest at the rate of 4 per cent. per annum for the period commencing from 23rd June, 1976 and ending on the date on which the payment of the amounts specified in clause 7 are made by the Central Government to the Commissioner of Payments. It is estimated that the interest payment in terms of the provisions of the said sub-clause is likely to be of the order of Rs. 4.62 lakhs per month for Burn and Company Limited and Rs. 3.78 lakhs per month for Indian Standard Wagon Company Limited. The total expenditure which is likely to be involved on this account is estimated to be of the order of Rs. 8.40 lakhs per month.

5. Under clause 14 of the Bill, Commissioner of Payments will be appointed by the Government with adequate staff to assist him for the purpose of disbursing the amounts payable to these two companies,

The salary and allowances of the Commissioner of Payments and his staff and the expenditure of office and establishment will be defrayed out of the Consolidated Fund of India. The estimated expenditure on this account is likely to be of the order of Rs. 20,000 per month.

6. Under sub-clause (2) of clause 15 of the Bill, the Central Government shall pay to the Commissioner, in cash, such amount, payable under section 5 of the Burn Company and Indian Standard Wagon Company (Taking Over of Management) Act, 1973, to each of these two companies in relation to the period commencing on the date on which the management of the undertakings was taken over by the Central Government and ending on the appointed day, *viz.*, 31st March, 1975, as remains unpaid. The amount is estimated to be of the order of Rs. 1.00 lakh.

7. After the takeover of management of the two companies, they have operated the banking transactions through the United Bank of India. The United Bank of India has fully co-operated with the Government during the post-takeover period in extending credit facilities to these two companies at a point of time, when not even the minimum finance required to keep the units going could be made available. They were assured by the Government in February, 1974 that in the event of nationalisation, the Government would ensure that the interest of the Bank does not suffer. The total export packing credit for Yugoslavia Wagon deal obtained from the United Bank of India was Rs. 20.08 crores in the case of Burn and Company Limited and Rs. 8.14 crores in the case of Indian Standard Wagon Company Limited, both during the pre-takeover and post-takeover of management periods. The United Bank of India packing credit extending during the pre-takeover, as well as post-takeover management period, is a separate and distinct arrangement and the Government have to ensure that the credit is paid back even though receivables might fall short of the credit, on account of the reduction in the size of the order and the amounts payable to the companies under clause 7 might be inadequate. The Government are therefore required to pay back to the United Bank of India the shortfall, which approximately works out to Rs. 6.60 crores in the cases of both, Burn and Company and Indian Standard Wagon Company. The Bill does not, however, contain any provision regarding the said payment. The said payment will be made after due appropriation by Parliament by law.

8. Funds will also have to be provided to these undertakings, for the modernisation and expansion. The expenditure on modernisation and expansion is necessary to make these undertakings financially viable. The total investment during the remaining Fifth Plan period has been estimated at Rs. 900.00 lakhs. This expenditure will also be incurred after due appropriation by Parliament by law.

9. The Bill, if enacted, is not likely to involve any other recurring or non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 31 of the Bill empowers the Central Government to make rules to carry out the provisions of the Bill. Such rules may provide for matters, such as—

(*a*) the time within which, and the manner in which, an intimation referred to in sub-clause (3) of clause 4 of the Bill shall be given;

(*b*) the form and the manner in which and the conditions under which the Custodian shall maintain the accounts as provided in clause 11;

(*c*) the manner in which monies in any provident fund or other fund, referred to in clause 13, shall be dealt with.

2. The matters in respect of which such rules may be made are matters of procedure and administrative detail and it is hardly practicable to provide for them in the Bill itself. The delegation of the legislative power is, therefore, of a normal character.

Memorandum explaining the modifications contained in the Bill to replace the Burn Company and Indian Standard Wagon Company (Nationalisation) Ordinance, 1976.

Apart from changes of a formal, drafting and consequential nature, two changes have been made in the Bill, namely:—

(*i*) it has been clarified that Burn and Company Limited includes Coburn Properties Limited, which is its wholly owned subsidiary, and

(*ii*) sub-section (2) of section 22 of the Ordinance has been modified to enable the Central Government or a Government company to possess machinery, equipment or other property, which though not belonging to the two companies, were under their possession or control, on the same terms and conditions under which it was possessed by the two companies immediately before the 1st day of April, 1975.

BILL NO. 73 OF 1976

A Bill to provide for the acquisition and transfer of the undertakings of Messrs. Braithwaite and Company (India) Limited for the purpose of ensuring the continuity of production of goods which are vital to the needs of the country, and for matters connected therewith or incidental thereto.

WHEREAS Messrs. Braithwaite and Company (India) Limited was engaged in the manufacture and production of railway wagons, structural steel works for bridges and heavy workshop buildings, pressed steel tanks, cranes, road rollers, jute carding machines, roll formers, power sweepers, grey iron castings and steel forgings and also in the machining of intricate components of large sizes;

AND WHEREAS as a result of heavy losses suffered by the Company, there had been a closure of certain works owned by the Company;

AND WHEREAS for the purpose of speedily bringing the closed works of the Company into operation, the management of the undertakings of the Company was taken over by the Central Government, for a limited period, under section 18A of the Industries (Development and Regulation) Act, 1951;

65 of 1951.

AND WHEREAS it is necessary to acquire the undertakings of the Company to ensure the continuance of the production of goods which are vital to the needs of the country;

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Braithwaite and Company (India) Limited (Acquisition and Transfer of Undertakings) Act, 1976.

(*2*) The provisions of sections 28 and 29 shall come into force at once and the remaining provisions of this Act shall be deemed to have come into force on the 1st day of April, 1975.

Definition.

2. In this Act, unless the context otherwise requires,—

(*a*) "appointed day" means the 1st day of April, 1975;

(*b*) "Company" means the Braithwaite and Company (India) Limited, being a company as defined in the Companies Act, 1956, and having its registered office at 5, Hide Road, Calcutta-700043; 1 of 1956.

(*c*) "Commissioner" means the Commissioner of Payments appointed under section 14;

(*d*) "Ordinance" means the Braithwaite and Company (India) Limited (Acquisition and Transfer of Undertakings) Ordinance, 1976; 7 of 1976.

(*e*) "notification" means a notification published in the Official Gazette;

(*f*) "prescribed" means prescribed by rules made under this Act;

(*g*) "specified date" means such date as the Central Government may, for the purposes of any provision of this Act, by notification, specify and different dates may be specified for different provisions of this Act;

(*h*) words and expressions used herein and not defined but defined in the Companies Act, 1956, shall have the meanings, respectively, assigned to them in that Act. 1 of 1956.

CHAPTER II

ACQUISITION AND TRANSFER OF THE UNDERTAKINGS OF THE COMPANY

Acquisition and transfer of undertakings of the company.

3. On the appointed day, the undertakings of the Company, and the right, title and interest of the Company in relation to its undertakings, shall, by virtue of this Act, be transferred to, and shall vest in, the Central Government.

General effect of vesting.

4. (*1*) The undertakings of the Company shall be deemed to include all assets, rights, lease-holds, powers, authorities and privileges, and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash on

hand, reserve funds, investments, book debts and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the Company, whether within or outside India, and all books of account, registers and all other documents of whatever nature relating thereto.

(2) All properties as aforesaid which have vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other incumbrances affecting it, and any attachment, injunction or decree or order of any court restricting the use of such property in any manner or appointing any receiver in respect of the whole or any part of such property shall be deemed to have been withdrawn.

(3) Every mortgagee of any property which has vested under this Act in the Central Government and every person holding any charge, lien or other interest in, or in relation to, any such property, shall give, within such time and in such manner as may be prescribed, an intimation to the Commissioner of such mortgage, charge, lien or other interest.

(4) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (2) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and interest, payment of the mortgage money or other dues, in whole or in part, out of the amounts specified in section 7, and also out of the monies determined under section 8, but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Central Government.

(5) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any property which has vested in the Central Government, under section 3, instituted or preferred by or against the Company is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of transfer of the undertakings of the Company or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the Central Government, or where the undertakings of the Company are directed under section 6, to vest in a Government company, against that Government company.

Central Government or the Government company not to be liable for prior liabilities.

5. (1) Every liability of the Company in respect of any period prior to the appointed day, shall be the liability of the Company and shall be enforceable against it and not against the Central Government, or, where the undertakings are directed, under section 6, to vest in a Government company, against that Government company.

(2) For the removal of doubts, it is hereby declared that,—

(a) save as otherwise expressly provided in this section or in any other provision of this Act, no liability of the Company in respect of any period prior to the appointed day, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed under section 6 to vest in a Government company, against that Government company;

(b) no award, decree or order of any court, tribunal or other authority in relation to the undertakings of the Company, passed after the appointed day, in respect of any matter, claim or dispute which arose before that day, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed under section 6 to vest in a Government company, against that Government company;

(c) no liability incurred by the Company before the appointed day, for the contravention of any provision of law for the time being in force, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed under section 6, to vest in a Government company, against that Government company.

Power of Central Government to direct vesting of the undertakings of the Company in a Government company.

6. (*1*) Notwithstanding anything contained in sections 3 and 4, the Central Government may, if it is satisfied that a Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, direct, by notification, that the undertakings of the Company, and the right, title and interest of the Company in relation to its undertakings, which have vested in the Central Government under section 3, shall, instead of continuing to vest in the Central Government, vest in the Government company either on the date of the notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.

(*2*) Where the right, title and interest of the Company in relation to its undertakings, vest in a Government company under sub-section (*1*), the Government company shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertakings, and all the rights and liabilities of the Central Government in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of the Government company.

CHAPTER III

PAYMENT OF AMOUNTS

Payment of amount.

7. For the transfer to, and vesting in, the Central Government, under section 3, of the undertakings of the Company and the right, title and interest of the Company in relation to its undertakings, there shall be given by the Central Government to the Company, in cash, and in the manner specified in Chapter VI, an amount of rupees sixteen crores and twenty-five lakhs.

Payment of further amount.

8. (*1*) For the deprivation of the Company of the management of its undertakings, there shall be given to the Company by the Central Government an amount calculated at the rate of rupees fifty thousand per annum for the period commencing on the date on which the management of the undertakings of the Company was taken over by the Central Government and ending on the appointed day.

(2) In consideration of the retrospective oberation of the provisions of section 3, 4 and 5 there shall also be given, in cash, by the Central Government to the Company, an amount equal to an amount calculated at the rate of rupees fifty thousand per annum for the period commencing

on the appointed day and ending on the date of promulgation of the Ordinance.

(3) **The amount specified in section 7 of the amounts determined under sub-sections (1) and (2) shall carry simple interest at the rate of four per cent. per annum for the period commencing on the date of promulgation of the Ordinance and ending on the date on which payment of such amounts is made by the Central Government to the Commissioner.**

(4) The amounts determined in accordance with the provisions of sub-sections (1), (2) and (3) shall be given by the Central Government to the Company in addition to the amount specified in section 7.

(5) For the removal of doubts, it is hereby declared that the liabilities of the Company, in relation to its undertakings which have vested in the Central Government under section 3, shall be discharged from the amounts referred to in section 7, and also from the amounts determined under sub-sections (1), (2) and (3), in accordance with the rights and interests of the creditors of the Company.

CHAPTER IV

MANAGEMENT, ETC., OF THE UNDERTAKINGS OF THE COMPANY

Management, etc., of the undertakings of the Company.

9. (1) The general superintendence, direction, control and management of the affairs and business of the undertakings of the Company, the right, title and interest in relation to which have vested in the Central Government under section 3, shall,—

(a) where a direction has been made by the Central Government under sub-section (1) of section 6, vest in the Government company specified in such direction, or

(b) where no such direction has been made by the Central Government, vest in one or more Custodians appointed by the Central Government under sub-section (2),

and thereupon the Government company so specified or the Custodian so appointed, as the case may be, shall be entitled to exercise all such powers and do all such things as the Company is authorised to exercise and do in relation to its undertakings.

(2) The Central Government may appoint one or more individuals or a Government company as the Custodian of the undertakings of the Company in relation to which no direction has been made by it under sub-section (1) of section 6.

Duty of persons in charge of management of the undertakings of the Company to deliver all assets, etc.

10. (1) On the vesting of the management of the undertakings of the Company in a Government company or on the appointment of a Custodian, all persons in charge of the management of the undertakings of the Company immediately before such vesting or appointment, shall be bound to deliver to the Government company or the Custodian, as the case may be, all assets, books of account, registers or other documents in their custody relating to the undertakings of such Company.

(2) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the Government company or the Custodian as to its or his powers and duties and the Government company or Custodian may also, if it or he so desires, apply

to the Central Government at any time for instructions as to the manner in which the management of the undertakings of the Company shall be conducted by it or him or in relation to any other matter arising in the course of such management.

(3) The Custodian shall receive from the funds of the undertakings of the Company such remuneration as the Central Government may fix and shall hold office during the pleasure of the Central Government.

Accounts and audit.

11. The Custodian of the undertakings of the Company shall maintain an account of the undertakings of the Company in such form and manner and under such conditions as may be prescribed and the provisions of the Companies Act, 1956, shall apply to the audit of the account so maintained as they apply to the audit of the accounts of a company. 1 of 1956.

CHAPTER V

PROVISIONS RELATING TO THE EMPLOYEES OF THE COMPANY

Employment of certain employees to continue.

12. (*1*) Every person who is a workman within the meaning of the Industrial Disputes Act, 1947, and has been, immediately before the appointed day, employed in any undertaking of the Company shall become, on and from the appointed day, an employee of the Central Government or, as the case may be, of the Government company in which the right, title and interest of the Company in relation to its undertakings, have vested under this Act, and shall hold office or service under the Central Government or the Government company, as the case may be, with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the Central Government or the Government company, as the case may be, is duly terminated or until his remuneration and other conditions of service are duly altered by the Central Government or the Government company, as the case may be. 14 of 1941.

(2) Every person who is not a workman within the meaning of the Industrial Disputes Act, 1947, and who has been, immediately before the appointed day, employed in any undertaking of the Company shall become, as from the appointed day, an employee of the Central Government or the Government company, and shall hold office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity and other matters as would have been admissible to him if the undertakings of the Company had not been transferred to, and vested in, the Central Government or the Government company, and shall continue to do so unless and until his employment in the Central Government or the Government company is duly terminated or until his remuneration, terms and conditions of employment are duly altered by the Central Government or the Government company, as the case may be. 14 of 1947.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other person employed in any undertaking of the Company to the Central Government or the Government company shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in 14 of 1947.

force and no such claim shall be entertained by any court, tribunal or other authority.

(4) Where, under the terms of any contract of service or otherwise, any person, whose services become transferred to the Central Government or the Government company by reason of the provisions of this Act, is entitled to any arrears of salary or wages or any payments for any leave not availed of or any other payment, not being payment by way of gratuity or pension, such person may enforce his claim against the Company, but not against the Central Government or the Government company.

Provident and other funds.

13. (*1*) Where the Company has established a provident, superannuation, welfare or other fund for the benefit of the persons employed in any of the undertakings of the Company, the monies relatable to the officers or other employees, whose services have become transferred by or under this Act to the Central Government or the Government company, shall, out of the monies standing, on the appointed day, to the credit of such provident, superannuation, welfare or other fund, stand transferred to, and shall vest in, the Central Government or the Government company, as the case may be.

(2) The monies which stand transferred under sub-section (*1*) to the Central Government or the Government company, as the case may be, shall be dealt with by that Government or that Government company in such manner as may be prescribed.

CHAPTER VI

COMMISSIONER OF PAYMENTS

Appointment of Commissioner of Payments.

14. (*1*) The Central Government shall, for the purpose of disbursing the amounts payable to the Company under sections 7 and 8, by notification, appoint a Commissioner of Payments.

(2)The Central Government may appoint such other persons as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons also to exercise all or any of the powers evercisable by him under this Act and different persons may be authorised to exercise different powers.

(3) Any person authorised by the Commissioner to exercise any of the powers exercisable by the Commissioner may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Act and not by way of authorisation.

(4) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of India.

Payment by the Central Government to the Commissioner.

15. (*1*) The Central Government shall, within thirty days from the specified date, pay, in cash, to the Commissioner, for payment to the Company—

(*a*) an amount equal to the amount specified in section 7, and

(*b*) an amount equal to the amount payable to the Company under section 8.

(2) A deposit account shall be opened by the Central Government in favour of the Commissioner, in the Public Account of India, and every amount paid under this Act to the Commissioner shall be deposited by him to the credit of the said deposit account and the said deposit account shall be operated by the Commissioner.

(3) The interest accruing on the amount standing to the credit of the deposit account referred to in sub-section (2) shall enure to the benefit of the Company.

Certain powers of the Central Government or Government company.

16. (1) The Central Government or the Government company, as the case may be, shall be entitled to receive up to the specified date, to the exclusion of all other persons, any money due to the Company, in relation to its undertakings which have vested in the Central Government, or the Government company, realised after the appointed day notwithstanding that the realisation pertains to a period prior to the appointed day.

(2) The Central Government or the Government company, as the case may be, may make a claim to the Commissioner with regard to every payment made by it after the appointed day for discharging any liability of the Company in relation to any period prior to the appointed day; and every such claim shall have priority in accordance with the priorities attaching, under this Act, to the matter in relation to which such liability has been discharged by the Central Government or the Government company.

(3) Save as otherwise provided in this Act, the liabilities of the Company in respect of any transaction prior to the appointed day, which have not been discharged on or before the specified date, shall be the liabilities of the Company.

Claims to be made to the Commissioner.

17. Every person having a claim against the Company shall prefer such claim before the Commissioner within thirty days from the specified date:

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days and not thereafter.

Priority of claims.

18. The claims arising out of the matters specified in the Schedule shall have priorities in accordance with the following principles, namely:—

(a) Category I will have precedence over all other categories and Category II will have precedence over Category III, and so on;

(b) the claims specified in each of the categories, except Category VI, shall rank equally and be paid in full, but, if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly;

(c) the liabilities specified in Category VI shall be discharged, subject to the priorities specified in this section, in accordance with the terms of the secured loans and the priority, *inter se*, of such loans; and

(d) the question of discharging any liability with regard to a matter specified in a lower category shall arise only if a surplus is

left after meeting all the liabilities specified in the immediately higher category.

Examination of claims.

19. (*1*) On receipt of the claims made under section 17, the Commissioner shall arrange the claims in the order of priorities specified in the Schedule and examine the same in accordance with such order of priorities.

(*2*) If, on examination of the claims, the Commissioner is of opinion that the amount paid to him under this Act is not sufficient to meet the liabilities specified in any lower category, he shall not be required to examine the claims in respect of such lower category.

Admission or rejection of claims.

20. (*1*) After examining the claims with reference to the priorities set out in the Schedule, the Commissioner shall fix a certain date on or before which every claimant shall file the proof of his claim or be excluded from the benefit of the disbursements made by the Commissioner.

(*2*) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue of a daily newspaper in English language and in one issue of such daily newspaper in the regional language as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the time specified in the advertisement.

(*3*) Every claimant who fails to file the proof of his claim within the time specified by the Commissioner shall be excluded from the disbursements made by the Commissioner.

(*4*) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the Company an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, in writing, admit or reject the claim in whole or in part.

(*5*) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions, including the place or places at which he will hold his sittings and shall, for the purpose of making an investigation under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

5 of 1908.

(*a*) the summoning and enforcing the attendance of any witness and examining him on oath;

(*b*) the discovery and production of any document or other material object producible as evidence;

(*c*) the reception of evidence on affidavits;

(*d*) the issuing of any commission for the examination of witnesses.

(*6*) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Commissioner shall be deemed to be a civil court for the purposes of section 345 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.

2 of 1974.

(7) A claimant who is dissatisfied with the decision of the Commissioner, may prefer an appeal against the decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the Company is situated:

Provided that where a person who is a Judge of a High Court is appointed to be the Commissioner, the appeal shall lie to the High Court at Calcutta, and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

Disbursement of money by the Commissioner to claimants.

21. After admitting a claim under this Act, the amount due in respect of such claim shall be paid by the Commissioner to the person or persons to whom such sums are due, and, on such payment, the liability of the Company in respect of such claim shall stand discharged.

Disbursement of amounts to the Company.

22. (1) If, out of the monies paid to him in relation to the undertakings of the Company, there is a balance left after meeting the liabilities as specified in the Schedule, the Commissioner shall disburse such balance to the Company.

(2) Where the possession of any machinery, equipment or other property, has vested in the Central Government or a Government company under this Act, but such machinery, equipment or other property does not belong to the Company, it shall be lawful for the Central Government or the Government company to continue to possess such machinery or equipment or other property on the same terms and conditions under which they were possessed by the Company immediately before the 1st day of April, 1975.

Undisbursed or unclaimed amount to be deposited to the general revenue account.

23. Any money paid to the Commissioner which remains undisbursed or unclaimed for a period of three years from the last day on which the disbursement was made, shall be transferred by the Commissioner to the general revenue account of the Central Government; but a claim to any money so transferred may be preferred to the Central Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, the order, if any, for payment of the claim being treated as an order for the refund of the revenue.

CHAPTER VII

MISCELLANEOUS

Act to have overriding effect.

24. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any court, tribunal or other authority.

Contracts to cease to have effect unless ratified by the Central Government or Government company.

25. (*1*) Every contract entered into by the Company in relation to its undertakings for any service, sale or supply, and in force immediately before the appointed day, shall, on and from the expiry of one hundred and eighty days from the date of promulgation of the Ordinance, cease to have effect unless such contract is, before the expiry of that period, ratified, in writing, by the Central Government or Government company, and, in ratifying such contract, the Central Government or Government company may make such alteration or modification therein as it may think fit:

Provided that the Central Government or Government company shall not omit to ratify a contract, and shall not make any alteration or modification in a contract, unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or detrimental to the interests of the Central Government or the Government company.

(*2*) The Central Government or Government company shall not omit to ratify a contract, and, shall not make any alteration or modification therein, except after giving to the parties to the contract a reasonable opportunity of being heard and except after recording, in writing, its reasons for refusal to ratify the contract or for making any alteration or modification therein.

Protection of action taken in good faith.

26. (*1*) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of that Government or the Custodian or the Government company or any officer or other person authorised by that Government or Government company for anything which is in good faith done or intended to be done under this Act.

(*2*) No suit or other legal proceeding shall lie against the Central Government or any of its officers or other employees or the Government company or any officer or other person authorised by that company for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

Delegation of powers.

27. (*1*) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act, other than the power conferred by section 30, may also be exercised by such person or persons as may be specified in the notification.

(*2*) Whenever any delegation of power is made under sub-section (*1*), the person to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

Penalties.

28. Any person who,—

(*a*) having in his possession, custody or control any property forming part of any undertaking of the Company, wrongfully withholds such property from the Central Government or Government company; or

(*b*) wrongfully obtains possession of, or retains, any property forming part of any undertaking of the Company or wilfully withholds or fails to furnish to the Central Government or Government company or any person or body of persons specified by that Government or Government company, any document relating to such undertaking which may be in his possession, custody or control or

fails to deliver to the Central Government or Government company or any person or body of persons specified by that Government or Government company, any assets, books of account, registers or other documents in his possession, custody or control, relating to the undertaking of the Company; or

(*c*) wrongfully removes or destroys any property forming part of any undertaking of the Company or prefers any claim under this Act which he knows or has reasonable cause to believe to be false or grossly inaccurate,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

Offences by companies.

29. (*1*) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals;

(*b*) "director", in relation to a firm, means a partner in the firm.

Power to make rules.

30. (*1*) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the time within which, and the manner in which, an intimation shall be given to the Commissioner under sub-section (*3*) of section 4;

(*b*) the form and the manner in which, and the conditions under which, the Custodian shall maintain accounts as required by section 11;

(*c*) the manner in which the monies in any provident or other fund referred to in section 13 shall be dealt with;

(*d*) any other matter which is required to be, or may be, prescribed.

(*3*) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties.

31. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which this Act receives the assent of the President.

Declaration as to the policy of the State.

32. It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clause (*b*) of article 39 of the Constitution.

Explanation.—In this section, "State" has the same meaning as in article 12 of the Constitution.

Repeal and saving.

33. (*1*) The Braithwaite and Company (India) Limited (Acquisition and Transfer of Undertakings) Ordinance, 1976, is hereby repealed. 7 of 1975.

(*2*) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

(*See* sections 18, 19 and 20)

ORDER OF PRIORITIES FOR THE DISCHARGE OF LIABILITIES OF THE COMPANY

PART 'A'

Post-take-over management period

Category I—

Wages, salaries and other dues of the employees of the Company.

Category II—

(*a*) (*i*) Loans advanced by the Central Government.

(*ii*) Secured loans advanced by banks and financial institutions.

Category III—

(*a*) Any other loans.

(*b*) Credit availed of by the Company for the purpose of carrying on any trading or manufacturing operations.

Category IV—

Revenue, taxes, cesses, rates or other dues of Central Government or a State Government.

PART 'B'

Pre-take-over management period

Category V—

Arrears in relation to contributions to be made by the Company to the provident fund, salaries and wages and other amounts due to employees.

Category VI—

Secured loans.

Category VII—

Revenue, taxes, cesses, rates or any other dues to the Central Government, a State Government, a local authority or a State Electricity Board.

Category VIII—

(*a*) Any credit availed of by the Company for the purpose of trading or manufacturing operations.

(*b*) Any other dues.

STATEMENT OF OBJECTS AND REASONS

Messrs Braithwaite and Company (India) Limited were engaged in the manufacture and production of railway wagons, structurals and other commodities which were vital to the needs of the country. The Company began to show steady decline in production from 1968 onwards and incurred heavy losses which resulted in closure of some of the works of the Company. After an investigation into the affairs of the Company, the management of its undertakings was taken over by the Central Government under section 18A of the Industries (Development and Regulation) Act, 1951, in March, 1971. Since early action was necessary to reduce the interest charges on loans and for restructuring of the capital of the Company, the undertakings of the Company were acquired by the Braithwaite and Company (India) Limited (Acquisition and Transfer of Undertakings) Ordinance, 1976. The Bill seeks to replace the said Ordinance.

NEW DELHI; T.A. PAI.

The 4th August, 1976.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 1(22)/76/HM-III, dated the 5th August, 1976 from Shri T. A. Pai, Minister of Industry and Civil Supplies to the Secretary-General, Lok Sabha.]

The President having been informed of the subject matter of the Bill to provide for the replacement of the Ordinance 'The Braithwaite and Company (India) Limited (Acquisition and Transfer of Undertakings) (Nationalisation) Ordinance, 1976 (No. 7 of 1976), by Act of Parliament, recommends, under clauses (1) and (3) of article 117 of the Constitution, the introduction of the said Bill and its consideration by Lok Sabha.

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides for the payment, in cash, and in the manner specified in Chapter VI of the Bill, an amount of Rs. 16,25,00,000 (Rupees sixteen crores and twenty-five lakhs), for vesting in the Central Government, the right, title and interest of the Company in relation to the undertakings owned by it.

2. Sub-clause (*1*) of clause 8 provides for payment of further amount in cash, in consideration for the deprivation of the Company of the management of its undertakings, an amount to be calculated at the rate of Rs. 50,000 (Rupees fifty thousand only) per annum, for the period commencing on the date on which the management of the undertakings of the Company was taken over by the Government ending on the appointed day. It is estimated that this amount will be of the order of Rs. 2,00,000 (Rupees two lakhs only).

3. Sub-clause (*2*) of clause 8 provides that in consideration of the retrospective operation of the provisions of sections 3, 4 and 5, there shall be given, in cash, by the Government to the Company, an amount equal to an amount calculated at the rate of Rs. 50,000 (Rupees fifty thousand only) per annum for a period commencing on the appointed day and ending on the date of promulgation of the Ordinance, *i.e.*, 23rd June, 1976. This amount is estimated to be of the order of Rs. 0.65 lakhs.

4. Sub-clause (*3*) of clause 8 provides for payment of simple interest at the rate of 4 per cent. per annum, for the period commencing from 23rd June, 1976 and ending on the day on which the payment of these amounts is made by the Central Government to the Commissioner of Payments. It is estimated that the interest-payment in terms of the provisions of the said sub-clause is likely to be of the order of Rs. 5.43 lakhs per month.

5. Clause 14 of the Bill provides for the appointment of the Commissioner of Payments by the Government with adequate staff to assist him for the purpose of disbursing the amounts payable to the Company. The salary and allowances of the Commissioner of Payments and his staff and expenditure on office and establishment will be defrayed out of the Consolidated Fund of India. The estimated expenditure on this account is likely to be of the order of Rs. 10,000 per month.

6. At the time of take over in March, 1971, loans from State Bank of India and National and Grindlays Bank were outstanding and in the interest of continuing the facilities from the Banks, Government had no alternative but to guaranteeing the pre-takeover secured loans along with guarantees for post-takeover loans as well. The post-takeover loans advanced by the State Bank amounted to Rs. 3.72 crores and loans advanced by Financial Institutions worked out to Rs. 0.18 crores as on the 31st March, 1975. During the pre-takeover period, as on 31st March, 1971, the Government guaranteed secured loans from State Bank and

National and Grindlays Bank which would be roughly rupees two crores. It was, therefore, felt that the Government having guaranteed the loans for both the pre-takeover and post-takeover periods, it would not be proper to go back on the guarantees if the amounts provided in the Bill fell short of discharging the liabilities on this account. It was, therefore, decided that the Government on its own would take note of the short-fall and pay up the amounts to the Banks and the Financial Institutions to the extent the guarantees are called up after being met out of the amounts provided in the Ordinance. This short-fall is expected to be about Rs. 2 crores against post-takeover loans and Rs. 2 crores against pre-takeover loans. Thus the total estimated expenditure on this account is likely to be of the order of Rs. 4 crores. The Bill does not, however, provide for any payment in pursuance of the guarantee. Payment in pursuance of the guarantee will be made after due appropriation by Parliament by law.

7. Funds will also have to be provided to the undertakings of the Company for modernisation and expansion. The expenditure on modernisation is necessary to make these undertakings financially viable. The total estimated expenditure during the remaining period of the Fifth Plan is estimated to be of the order of Rs. 1 crore (one crore only).

8. The Bill, if enacted, is not likely to involve any other recurring or non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 30 of the Bill empowers the Central Government to make rules to carry out the provisions of the Bill. Such rules may provide for matters, such as—

(*a*) the time within which and the manner in which an intimation referred to in sub-clause (*3*) of clause 4 of the Bill shall be given;

(*b*) the manner in which monies in any provident or other fund referred to in clause 13 shall be dealt with.

2. The matters in respect of which such rules may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

MEMORANDUM EXPLAINING THE MODIFICATIONS CONTAINED IN THE BILL TO REPLACE THE BRAITHWAITE AND COMPANY (INDIA) LIMITED (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ORDINANCE, 1976.

Apart from changes of a formal, drafting and consequential nature, sub-section (2) of section 22 of the Ordinance has been modified in the Bill to enable the Central Government or a Government company to possess machinery, equipment or other property, which though not belonging to the Company, were under its possession or control, on the same terms and conditions under which such machinery, equipment or other property was possessed by the Company immediately before the 1st day of April, 1975.

BILL No. 76 OF 1976

A Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 1976-77.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Appropriation (No. 5) Act, 1976.

Issue of Rs. 244, 18,04,000 out of the Consolidated Fund of India for the year 1976-77.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of two hundred and forty four crores, eighteen lakhs and four thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1976-77, in respect of the services specified in column 2 of the Schedule.

Appropriation

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

THE SCHEDULE

(*See* sections 2 and 3)

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	Department of Agriculture	Revenue	20,85,000	..	20,85,000
2	Agriculture	Revenue	60,00,00,000	..	60,00,00,000
7	Department of Rural Development	Revenue	15,00,00,000	..	15,00,00,000
14	Foreign Trade and Export Production	Revenue	1,000	..	1,000
		Capital	40,68,00,000	6,25,00,000	46,93,00,000
23	Defence Services—Air Force	Revenue	..	1,00,000	1,00,000
25	Capital Outlay on Defence Services	Capital	15,00,000	..	15,00,000
29	Ministry of Energy	Revenue	3,78,000	..	3,78,000
30	Power Development	Capital	32,00,02,000	..	32,00,02,000
32	Ministry of External Affairs	Revenue	2,50,00,000	..	2,50,00,000
38	Transfers to State and Union Territory Governments	Revenue	9,40,73,000	..	9,40,73,000
39	Other Expenditure of the Ministry of Finance	Capital	58,56,60,000	..	58,56,60,000
41	Department of Revenue and Banking	Revenue	3,45,000	..	3,45,000
48	Family Planning	Revenue	5,00,00,000	..	5,00,00,000
51	Department of Personnel and Administrative Reforms	Revenue	1,000	24,000	25,000
61	Industries	Capital	1,000	..	1,000
65	Information and Publicity	Revenue	1,00,00,000	..	1,00,00,000
76	Department of Science and Technology	Revenue	2,00,00,000	..	2,00,00,000
83	Department of Steel	Revenue	5,50,000	..	5,50,000
		Capital	7,28,79,000	..	7,28,79,000
84	Department of Mines	Revenue	6,00,000	..	6,00,000
85	Mines and Minerals	Revenue	1,23,00,000	4,000	1,23,04,000
		Capital	1,98,00,000	..	1,98,00,000

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
88	Department of Rehabilitation Capital	46,00,000	..	46,00,000
99	Atomic Energy Research, Development and Industrial Projects · · Capital	1,000	..	1,000
100	Nuclear Power Schemes · Capital	..	26,00,000	26,00,000
	TOTAL · ·	237,65,76,000	6,52,28,000	244,18,04,000

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 114(1) of the Constitution of India, read with article 115 thereof, to provide for the appropriation out of the Consolidated Fund of India of the moneys required to meet the Supplementary expenditure charged on the Consolidated Fund of India and the grants made by the Lok Sabha for expenditure of the Central Government, excluding Railways, for the financial year 1976-77.

SUSHILA ROHATGI.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. F.5(48)-B(SE)/76, dated the 16th August, 1976 from Shrimati Sushila Rohatgi, Deputy Minister in the Ministry of Finance to the Secretary-General, Lok Sabha.]

The President having been informed of the subject matter of the proposed Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the year ending on the 31st day of March, 1977, recommends the introduction of the Appropriation (No. 5) Bill, 1976 in the Lok Sabha and also recommends to the Sabha the consideration of the Bill under clauses (1) and (3) of article 117 of the Constitution read with clause (2) of article 115 thereof.

2. The Bill will be introduced in the Lok Sabha after all the Supplementary Demands for Grants for 1976-77 have been voted.

S. L. SHAKDHER,
Secretary-General.

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